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10/027,741	12/20/2001	Trenton M. Overholt	RPC 0579 PUS	3788

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3727

7

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,741

Applicant(s)

OVERHOLT ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-17 and 20-26 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the second portion of the peripheral edge of the bottom panel proximate the first portion includes a raised flange that overlies the outer face of the one side panel when the one side panel is pivoted to the raised position as stated in claims 9, 12 and 22 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 9, 12, 22 and 24 are objected to because of the following informalities: Claims 12 and 22 recites structure pertaining to the second portion of the peripheral edge of the bottom panel proximate the first portion includes a raised flange that overlies the outer face of the one side panel when the one side panel is pivoted to the raised position which has not been shown in the drawings. Appropriate correction is required. Appropriate correction may include the cancellation of the claim(s) or the removal of the objectionable portion of the claim(s). Do not submit new matter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7, 12, 13, 22 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 7 recites the limitation "the first edge" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitation "the first portion" in line 2. There is insufficient antecedent basis for this limitation in the claim. Also, claim 12 is awkward in construction in reciting a "second portion" when a first portion hasn't yet been introduced. Claim 22 is similarly indefinite.

Claim 13 recites the limitation "the first portion" in line 4. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

28-33

Claims 1-3 and ~~25~~ are rejected under 35 U.S.C. 102(e) as being anticipated by Merey.

The latch is best shown in Fig. 6 and 7, Fig. 6 depicts an engaged position with a first side panel 16 and a second side panel 20, the first side panel including an outer face, a first lateral edge with a latch catch portion extending toward the second side panel having a base attached to the first lateral edge, a lever arm at its tip and a first intermediate portion between the base and lever arm having a first cam surface and a first shoulder, the second side panel including an inner face, a second lateral edge having a lateral edge flange extending inwardly

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from the lateral edge toward the first side panel and an inward projection extending inwardly from the lateral edge flange, the inward projection has a second cam surface and a second shoulder. Fig. 7 depicts the disengaged position. For claim 3, Merey discloses rib as shown in Fig. 6 and 7 inward of the latch on the first lateral edge which extends vertically and generally perpendicular to the pivot axis of the first side panel, the base portion of the latch member is integrally formed with the rib.

Claims 11-13, 20-~~24~~²³ and ~~26~~²⁷ are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Smyers et al. (Smyers) and Foy ('079). *Foy is actually 102b*

Claims ~~11-13~~^{20-23 + 27} and ~~20-24~~ are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Luburic.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merey in view of Foy ('079).

Merey discloses the invention except for the inside corner which receives a rib. Foy teaches a rib associated with a latch and first side panel 14 which is received in the inside corner of the second lateral edge of a second side panel 20, the rib extend both vertically and outwardly from the outer face of the first side panel generally perpendicular to the pivot axis of the first side panel. It would have been obvious to add the rib at a location such that the rib is received on the inside corner of an adjacent panel in order to provide a rib-corner structure which adds stability

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to prevent warping or buckling in the corner area and to increase the structural strength of the corner for stacking loads as well as side impact loads.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Merey in view of EPO reference No. ('779) to Yamauchi.

Merey discloses the invention except for the locating projection and socket. Yamauchi teaches a first side panel 300 with at least one outwardly projecting locating member and a second side panel 200 with at least one socket receiving the locating member. It would have been obvious to add the locating projection and socket in order to promote proper alignment to ensure correct latching, structural integrity and reduced wear.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Merey in view of Smyers.

Merey discloses the invention except for the basal edge and recessed shelf construction. Smyers teaches a basal edge and recessed shelf construction. It would have been obvious to add the basal edge and recessed shelf construction in order to ensure proper alignment, structural integrity and reduced wear.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smyers in view of Yamauchi.

Smyers discloses the invention except for the locating projection and socket. Yamauchi teaches a first side panel 300 with at least one outwardly projecting locating member and a second side panel 200 with at least one socket receiving the locating member. It would have been obvious to add the locating projection and socket in order to promote proper alignment to ensure correct latching, structural integrity and reduced wear.

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Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyers in view of Yamauchi as applied to claim 14 above, and further in view of Merey.

The combination disclose the invention except for the latch configuration. Merey teaches the latch configuration. It would have been obvious to modify the latch to include the components of Merey in order to provide a positive latching so that side walls do not inadvertently open yet having a mechanism for easy and ready disengagement of the latch to open the side walls when such is needed.


Claims 5, 6, 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
June 11, 2003